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09/690,159	10/17/2000	Oleg B. Rashkovskiy	BKA.0005US	2744

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TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

EXAMINER
VU, NGOC K

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 January 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _44-51,54-56 and 58-74_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _44-51, 54-56, and 58-74_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

Response to Arguments

1.   Applicant's arguments filed January 22, 2007 have been considered but they are not

persuasive.

Applicant asserts that Zigmond does not disclose storing content in a storage 86. In

response, examiner points out that the feature of storing video programming or "content" in a

device 86 is described in the Zigmond reference in the following:

> "Advertisement repository 86 contains a cache of delivered advertisements
> that optionally have been prefiltered. Accordingly, advertisement repository
> 86 is but one example of means for storing a plurality of advertisements.
> Advertisement repository 86 may comprise any computer readable medium capable of
> **storing digitally encoded video programming** and later making the encoded
> programming available for display to a viewer. Alternatively, advertisement repository 86
> may comprise conventional magnetic video tape or another recording medium **for
> storing an analog version of the video programming feed.**" (See col. 15, lines 24-
> 34).

This disclosure indicates that storage 86 stores advertisements as well as video

programming. Particularly, the storage 86 stores digitally encoded video programming so that

the video programming can be displayed later. In addition, the storage 86 stores an analog

version of the video programming feed. Thus, Zigmond of the record teaches storing content

(e.g., video programming) in storage 86.

In response to applicant's argument that the Armstrong reference fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies (i.e.,

servers are not needed to select an advertisement in response to a pause) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

Accordingly, the rejections of claims 44-51, 54-56, and 58-74 are maintained.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 44-51, 54-56, and 58-74 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Armstrong et al. (US 7,017,173 B1) in view of Zigmond et al. (US 6,698020

B1).

Regarding claim 44, Armstrong teaches a method comprising receiving content and at

least two advertisements on a content receiver (e.g., set top box) (col. 3, lines 4-18; col. 3-4,

lines 65-2; col. 4, lines 40-47; figures 1-3); storing advertisements in a cache (storage) coupled

to said content receiver (col. 13, lines 24-34), in response to detecting a change from the one

mode of display to another mode of display (e.g., pausing or stopping the presentation of the

program), displaying one or more selected advertisements for as long as the other mode of

display continues, said change from said one mode of display to said other mode of display in

response to an action taken by a user of said content receiver (upon receiving stop or pause

command from a user, the set top box displays advertisement information – see col. 4, lines 47-

51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines 29-49; col. 13, lines 28-34). Armstrong

does not explicitly disclose storing the content, selecting a stored advertisement based on a

content characteristic that is specified by an advertisement provider, and displaying the

retrieved content in one mode of display. However, Zigmond discloses storing video

programming and advertisements in a storage 86 of viewer's device and later making the video

programming available for display to a viewer (col. 15, lines 26-34). Zigmond further discloses

selecting a stored advertisement based on advertisement parameter that is specified by an

advertiser/provider (see col. 11, lines 31-42; col. 12, lines 15-18 and 33-38). Therefore, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the system of the system of Armstrong by storing the content and displaying the

retrieved content, and selecting a stored advertisement based on advertisement parameter that

is specified by an advertiser/provider as disclosed by Zigmond in order to locally playback the

video programming and effectively tailor advertisements to the interests and needs of the

viewers.

Regarding claim 54, Armstrong teaches a medium for storing instruction that, if

executed, enable a processor-based system (within set top box – figures 1-3) to receive content

and at least two advertisements on a content receiver (e.g., set top box) (col. 3, lines 4-18; col.

3-4, lines 65-2; col. 4, lines 40-47; figures 1-3); store advertisements in a cache (storage)

coupled to said content receiver (col. 13, lines 24-34), in response to detecting a switch from the

one mode of display to another mode of display (e.g., pausing or stopping the presentation of

the program), display one or more selected advertisements for as long as the other mode of

display continues, said switch from said one mode of display to said other mode of display

initiated by a user's use of the content receiver (upon receiving stop or pause command from a

user, the set top box displays advertisement information – see col. 4, lines 47-51; col. 5-6, lines

66-7; col. 6, lines 57-60; col. 11, lines 29-49; col. 13, lines 28-34). Armstrong does not explicitly

disclose storing the content, selecting a stored advertisement based on a content characteristic

that is specified by an advertisement provider, and displaying the retrieved content in one mode

of display. However, Zigmond discloses storing video programming and advertisements in a

storage 86 of viewer's device and later making the video programming available for display to a

viewer (col. 15, lines 26-34). Zigmond further discloses selecting a stored advertisement based

on advertisement parameter that is specified by an advertiser/provider (see col. 11, lines 31-42;

col. 12, lines 15-18 and 33-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the system of Armstrong by storing the content and displaying the retrieved content, and selecting a stored advertisement based on advertisement parameter that is specified by an advertiser/provider as disclosed by Zigmond in order to locally playback the video programming and effectively tailor advertisements to the interests and needs of the viewers.

Regarding claims 45 and 55, Armstrong as modified by Zigmond further discloses that the advertiser may specify a particular advertisement to be shown during a particular program is broadcast. The particular advertisement is selected according to a particular program being viewed based on content rating (see Zigmond: col. 12, lines 15-18 and 47-51; col. 13, lines 48-51).

Regarding claims 46 and 56, Armstrong as modified by Zigmond further discloses comparing the content ratings of the advertisement specified by the advertiser to content rating of video programming being viewed (see Zigmond: col. 12, lines 15-18; col. 13, lines 48-57).

Regarding claim 47, Armstrong as modified by Zigmond further discloses selecting an advertising based on subject matter specified by the advertisement provider (see Zigmond: col. 12, lines 15-18 and 60-62).

Regarding claims 48-49 and 58-59, Armstrong as modified by Zigmond further discloses the subject matter of the television program may be identified using the descriptions in the electronic program database 81, by monitoring the contents of the closed captioning information that is broadcast with the video and audio portions of the television program (see Zigmond: col. 13, lines 1-6).

Regarding claims 50 and 60, Armstrong as modified by Zigmond further discloses storing a variety of content types (digital encoded video programming and/or analog version of

the video programming feed) and allowing any one of the content type to be selected for play at

any time (see Zigmond: col. 15, lines 28-34).

Regarding claims 61 and 62, Armstrong as modified by Zigmond further teaches

receiving interruption instructions (i.e., triggering) over a channel that if executed enable the

system to monitor for criteria that determines when content is able to be interrupted (see

Zigmond: col. 15, lines 37-39).

Regarding claim 64, Armstrong discloses a system (figures 1-3) comprising:

a receiver (142) receive content and at least two advertisements (col. 3, lines 4-18; col. 3-

4, lines 65-2; col. 4, lines 40-47; figures 1-3); a cache (storage within set top box 142) coupled

to the receiver, to store advertisements (col. 13, lines 24-34); an interface, in the receiver (142),

in response to detecting user-initiated stop of the one mode of display of content (e.g., pausing

or stopping the presentation of the program), display one or more selected advertisements for

as long as the one mode of display is stopped, displaying one or more selected advertisements

for as long as the other mode of display continues, said change from said one mode of display

to said other mode of display in response to an action taken by a user of said content receiver

(upon receiving stop or pause command from a user, the set top box displays advertisement

information – see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines 29-49;

col. 13, lines 28-34). Armstrong does not explicitly disclose storing the content, selecting a

stored advertisement based on a content characteristic that is specified by an advertisement

provider, and displaying the retrieved content in one mode of display. However, Zigmond

discloses storing video programming and advertisements in a storage 86 of viewer's device and

later making the video programming available for display to a viewer (col. 15, lines 26-34).

Zigmond further discloses selecting a stored advertisement based on advertisement parameter

that is specified by an advertiser/provider (see col. 11, lines 31-42; col. 12, lines 15-18 and 33-

38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the system of Armstrong by storing the content and displaying the retrieved content, and selecting a stored advertisement based on advertisement parameter that is specified by an advertiser/provider as disclosed by Zigmond in order to locally playback the video programming and effectively tailor advertisements to the interests and needs of the viewers.

Regarding claim 65, Armstrong discloses the system is a television receiver (see figures 1-3).

Regarding claim 66-68, Armstrong as modified by Zigmond teaches receiving interruption instructions (i.e., triggering) over a channel that if executed enable the system to monitor for criteria that determines when content is able to be interrupted. The system further comprises a device (83) that parses content from instructions for inserting a selected advertisement and parses instructions for how to store the content and advertisements (see Zigmond: col. 15, lines 37-39; col. 11, lines 31-49).

Regarding claim 70, Armstrong as modified by Zigmond further discloses that the advertiser may specify a particular advertisement to be shown during a particular program is broadcast. The particular advertisement is selected according to a particular program being viewed based on content rating (see Zigmond: col. 12, lines 15-18 and 47-51; col. 13, lines 48-51).

Regarding claim 71, Armstrong as modified by Zigmond further discloses selecting an advertising based on subject matter specified by the advertisement provider (see col. 12, lines 15-18 and 60-62).

Regarding claims 72-73, Armstrong teaches detecting a pause in the user of the content and resuming the user of the content (see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines 29-49; col. 13, lines 28-34).

Claim 74, Armstrong teaches detecting a change from one mode to another mode of display such as changing from playing the video program to pause/stop presentation of the video program (see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines 29-49; col. 13, lines 28-34). Armstrong does not explicitly teach the content or video programming is game. Official Notice is taken that video programming including game in distributing system is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Armstrong by providing game as video programming in order to effectively enhance television interactive service.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NGOC K. VU
PRIMARY EXAMINER
Art Unit 2623

April 27, 2007